



Association For Electronic Health Care Transactions

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January 25, 2002

P.L. 107-105 Administrative Simplification Compliance Act H.R 3323

Provides for an extension of the compliance date for the HIPAA transaction standards from October 16, 2002 to October 16, 2003.

Covered entities that wish such an extension must file a compliance plan with CMS by October 16, 2002.

The plan submitted by covered entities shall be *“a summary of the following:*

- (A) An analysis reflecting the extent to which, and the reasons why, the person is not in compliance.*
- (B) A budget, schedule, work plan, and implementation strategy for achieving compliance.*
- (C) Whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance.*
- (D) A time frame for testing that begins no later than April 16, 2003.”*

Covered entities may submit a plan at any time prior to October 16, 2002. Policy makers hope that those submitting plans won't wait until the last minute.

CMS is currently developing a model compliance plan for use by covered entities seeking an extension. CMS is exploring the possibility of allowing those submitting compliance plans to do so via a CMS website.

Covered entities may use the model plan developed by CMS or another format they wish, so long as it contains the required information cited above.

These plans will not be reviewed. Extensions will be granted when the plan is filed. However, it would be less than prudent of a covered entity if it failed to take due care in filling out these plans.

Model Plan

CMS is charged with developing the model plan required by the statute.

The private sector is taking a very deep interest making recommendations to CMS. On Friday, January 11, 2002 AFEHCT convened, and the AHA hosted a meeting of the major healthcare associations affected by HIPAA. Participating in that meeting were

American Association of Health Plans (AAHP)
American College of Surgeons
Amer. College of Physicians - American Society Of Internal Medicine
American Dental Association(ADA)
American Hospital Association(AHA)
American Health Information Management Association(AHIMA)
American Medical Association(AMA)
American Osteopathic Association
American Public Human Services Assoc.
Association For Electronic Health Care Transactions(AFEHCT)
Association of American Medical Colleges (AAMC)
Blue Cross Blue Shield Association(BCBSA)
Coalition For Health Information Policy(CHIP)
Federation of American Hospitals(FAH)
Health Insurance Association of America(HIAA)
Medical Group Management Association(MGMA)
National Association of Chain Drug Stores(NACDS)
WEDI

CMS
NCVHS / HHS

Rob Tennant from the Medical Group Management Association presented a sample document that he and WEDI would recommend for use by CMS as a model compliance form. The dialogue over the content of this private sector model compliance form was spirited.

The overwhelming consensus arrived at this meeting was the plan should be **minimal**. The model plan discussed at this meeting more than lived up to this recommendation.

Covered entities concerned about the level of detail that they should apply would be well served if they waited until CMS promulgates its model plan on March 31. **The CMS model plan is highly likely to require less detail than they expect**

There is strong disagreement over one aspect of the model plan: *A time frame for testing that begins no later than April 16, 2003."*

The ASCA statute requires the a compliance plan submitted by a covered entity (and therefore the CMS model compliance plan) contain "A time frame for testing that begins no later than April 16, 2003."

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The statute is silent as to whether the testing that should begin no later than April 16th is internal or external testing.

Some contend that the April 16, 2003 date should refer to internal testing. They contend that the law doesn't specify which testing should be started no later than April 16. Therefore if a covered entity's compliance plan includes any part of internal testing its plan should be viewed as compliant.

Others contend if that if CMS, either in its model compliance plan or in the instructions for the model compliance plan, leaves the impression that starting internal testing on April 16, 2003, is OK then the implementation of HIPAA is in big trouble. If payers only have to begin internal testing by April 16, 2003; and external testing is left to some indefinite date then very large numbers of providers, although compliant, will not be paid on October 17, 2003.

NCVHS role

The statute requires NCVHS to analyze a sample of the compliance plans submitted, NCVHS is then supposed to regularly publish, and widely disseminate to the public, reports containing effective solutions to compliance problems identified in the plans analyzed as required by the statute.

NCVHS has every intention in living up to the spirit and letter of the law. However HIPAA watchers have come to realize that given the fact that analysis won't begin until January 2003 and compliance is set for October 16, 2003, that there isn't enough time for NCVHS to conduct the research, hold follow up hearings, write the reports, submit and gain NCVHS and HHS approval, and disseminate such reports in time for them to be helpful to covered entities trying to achieve compliance by October 16, 2003.

Privacy

HHS is getting ready to issue an NPRM on privacy. It is expected by mid to late February. A 30 day comment period is expected. This will be the first update of privacy regulations as provided for in the original HIPAA statute.

The privacy rule published in final form on December 28th, 2000 stirred up a lot of complaints from many different parts of the health care community. The NPRM is expected address many of those complaints.

AHA Letter to Secretary Re: HIPAA

On January 16th, 2002, AHA sent to the Secretary of HHS an 8 page detailed letter that calls the Secretary's attention to a list of concerns about the implementation of HIPAA.

AHA's first set of concerns has to do with the delays in issuing the remaining regulations for electronic transaction standards and the problem that delay creates in meeting the compliance deadline. The regulations discussed in detail in AHA's letter were

- Claims Attachments and Health Plan Identifiers
- Clinical Code Sets
- External Codes
- Compliance and Testing Certification
- Coordination of Benefits
- National Provider Identifiers and National Provider

AHA's second set of concerns addressed measures the Secretary should take to assist health care providers in realizing the full savings and efficiencies potential implicit in HIPAA. The discussion here dealt with the prompt and accurate payment of claims. Items discussed in some detail were the definition of a clean claim, timeliness, and enforcement.

HIPAA aficionados would find this letter well worth reading. It may be accessed on AHA's web site at www.aha.org. If you are unable to access it at that web site, e-mail me at afehct@aol.com and ask for a copy and I will send it to you.